IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1872 (S/S) of 2005

Dalbir Singh Negi, son of Sri Kundan Singh Negi, resident of village – Saloor Dungra, Post Office – Saloor Dangra, District – Chamoli, presently posted as Assistant Teacher LT Grade English, Painkanda Uchhatar Madhyamik Vidyalaya, Saloor Dungra, Block – Joshi Math, District – Chamoli.

.....Petitioner.

Versus.

1. State of Uttaranchal through Secretary, Secondary Education, Government of Uttaranchal, Dehradun.
2. Director, Education Secondary and Intermediate, Education, Government of Uttaranchal, Dehradun.
3. District Education Officer, Chamoli.
4. The Committee of Management Painkanda Uchhatar Madhyamik Vidyalaya through its Manager Sri M.N. Bainjwal.
5. Principal, Painkanda Uchhatar Madhyamik Vidyalaya, Saloor Dungra, Block – Joshi Math, District – Chamoli.

.....Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri Pankaj Purohit, leaned counsel for the petitioner and learned standing counsel for respondent no. 1 to 3.

By means of this writ petition, the petitioner has challenged the advertisement no. 1 of 2005 dated 24.10.2005 published on 21.11.2005 in the daily newspaper "Amar Ujala" for the post of Assistant Teachers in Painkanda Uchhatar Madhyamik Vidyalaya, Saloor Dunga, Block – Joshi Math, District – Chamoli.

Learned counsel for the petitioner has submitted that the school was opened for the first time in the year 1994 and the petitioner was appointed as Assistant Teacher (English) by the Committee of Management vide its order dated 06.07.1994. In the year 1997, the Institute was accorded recognition and was brought under grand-in-aid vide order dated 02.09.1997. After the recognition was granted to the Institution and the Institution was brought under grant-in-aid. The petitioner was again appointed on the post of Assistant Teacher LT Grade English by respondent no. 4 vide order dated 04.11.1997 and since then he is continuing in the said Institution. However, respondent no. 4 has published the advertisement for the post of Assistant Teachers.

The submission of the petitioner is that he is entitled to be regularized on the post of Assistant Teacher and the Committee of Management should not have any right to fill up the post on which he is working.

From the appointment letter issued by the Committee of Management, it appears that petitioner was not appointed on regular basis and he was appointed as a part time teacher on a consolidated salary of Rs. 1800/- per month. In view of the appointment letter dated 04.11.1997 petitioner does not have any right to be regularized on the post. Petitioner has already applied for the appointment in pursuance to the advertisement.

Learned counsel for the petitioner has submitted that there is no mention of preference for those persons who are already working in the Institution and as such, respondents

be directed to give preference to the petitioner as he has been teaching in the Institution since 1997.

It is for the Selection Committee or Institution to consider the case of the petitioner and to decide whether preference should be given to the petitioner or not? This court cannot direct the Institution / Selection Committee to give preference to the petitioner. However, the Selection Committee or the Institution can consider the case of the petitioner for making appointment on the post of Assistant Teacher considering the fact that petitioner has already worked in the Institution for so many years.

With this direction the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

December 16, 2005
SKSharma